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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/074,288	05/07/1998	TONY M. POKORZYNSKI	PRI01P-739	1982

277 7590 11/21/2001

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EXAMINER
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JOHNSON, JERRY D

ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 11/21/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/074,288

Applicant(s)

POKORZYNSKI ET AL.

Examiner

Jerry D. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 August 2001.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 6-33 is/are pending in the application.
- 4a) Of the above claim(s) 11-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \*   c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

The request for a continued prosecution application (CPA) under 37 CFR 1.53(d) filed on August 21, 2001 is acknowledged. 37 CFR 1.53(d)(1) was amended to provide that the prior application of a CPA must be: (1) a utility or plant application that was filed under 35 U.S.C. 111(a) before May 29, 2000, (2) a design application, or (3) the national stage of an international application that was filed under 35 U.S.C. 363 before May 29, 2000. *See Changes to Application Examination and Provisional Application Practice*, interim rule, 65 *Fed. Reg.* 14865, 14872 (Mar. 20, 2000), 1233 *Off. Gaz. Pat. Office* 47, 52 (Apr. 11, 2000). Since a CPA of this application is not permitted under 37 CFR 1.53(d)(1), the improper request for a CPA is being treated as a request for continued examination of this application under 37 CFR 1.114. *See id.* at 14866, 1233 *Off. Gaz. Pat. Office* at 48.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 6-10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rohrlach et al.

Rohrlach et al, U.S. Patent 5,082,609, teach a method of production of a moulded panel, wherein a rigid substrate supports a finished panel surface, and for example is particularly applicable to, but not limited to, a door inner panel for a motor vehicle (column 1, lines 4-8). The production of a panel having a finish face, a substrate and a lamina of moulded polyurethane between the two is formed in a single closable die having two portions, the first stage of the operation being to spray an aliphatic polyurethane coloured film onto a release agent of one die

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portion, and spray an elastomer polyurethane over that film and allow to at least partially set, lay a sheet of reinforcing fibres which can for example be a continuous filament glass fibre over the liquid ingredients of a rigid foam polyurethane over the reinforcing fibres, close the mould, and remove the product after setting. Alternative materials such as fabric, carpet, or alternative facing film material may be applied subsequently in lieu of, or as well as, the aliphatic polyurethane (column 1, lines 37-55).

Claims 1-4 and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Takeuchi et al.

Takeuchi et al, U.S. Patent 5,180,617, teach a vehicle interior finishing panel so constructed that a foam base material into which a mat-shaped fiber reinforcing material is inserted is integrally molded on the back side of a facing material (column 2, lines 12-22). In one embodiment, the facing material is set in the lower mold element with its front side down. Next, the impregnated sheet material is set on the backside portion of the facing material. Then fiber reinforcing material is set on the facing material and the impregnated sheet material. Thereafter the molding material such as hard urethane foam is fed on the fiber reinforcing material and the upper mold element closed, and the mold is heated to foam the molding material to mold it into a given shape (column 5, lines 4-22). See Figure 7: The fiber reinforcing material is made of glass fiber or the like (column 2, lines 25-31). The porous sheet material is composed of fiber glass, synthetic fiber or other porous foam materials and has permeability (column 3, lines 41-43). In another embodiment, the facing material is set in the lower mold element with its front side down. Next the fiber reinforcing material is set on the facing material. Thereafter, the molding material such as hard urethane foam is fed onto the fiber reinforcing material, then

the upper mold element is closed, and the mold is heated to foam the molding material (column 6, lines 1-11). See Figure 11.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takeuchi et al.

Takeuchi et al teach that a porous sheet material 9 is placed in convex areas of a trim piece to prevent fibrous material 1 from pulling away from the convex portions of a panel when the mold is closed. While Takeuchi et al do not disclose a trim piece wherein the porous sheet material 9 is "substantially coextensive" with the upholstery skin material, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form a convex shaped trim piece wherein the porous sheet was "substantially coextensive" with the face material in order to prevent fibrous material from pulling away from the trim piece as taught by Takeuchi et al.

Applicant's arguments filed August 21, 2001 have been fully considered but they are not persuasive.

Applicants argue

Rohrlach et al does not teach or suggest a trim panel having a polyurethane foam bonded to a fiber reinforcing layer. To the contrary, Rohrlach et al teach a fiber reinforcing mat located entirely within a rigid polyurethane layer, not within or bonded to the foam layer. (Remarks, page 3).

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And

[t]he Rohrlach et al patent only describes layer 12 as being a cellular or foam material, and does not teach or suggest that rigid polyurethane layer 11 is or could be a foam material. (Remarks, page 3).

Applicants' argument is without merit.

In column 1, lines 37-49, Rohrlach et al teach

a panel having a finish face, a substrate and a lamina of moulded polyurethane between the two is formed in a single closable die having two portions, the first stage of the operation being to spray an aliphatic polyurethane coloured film onto a release agent of one die portion, and spray an elastomer polyurethane over that film and allow to at least partially set, lay a sheet of reinforcing fibres which can for example be a continuous filament glass fibre over the at least partially set elastomer, dispense the liquid ingredients of a rigid foam polyurethane over the reinforcing fibres, close the mould, and remove the product after setting. (Emphasis added).

Applicants argue

[t]he Examiner has taken the position that the claims did not exclude an interior trim member wherein the fibrous reinforcement is embedded within the molded foam as taught by Takeuchi et al. Applicant disagrees. The claims require that the molded foam material extend between the upholstery skin material and the substrate, and bond the skin material to the substrate. A substrate is a substratum, which is defined as "a base for something else," i.e., a foundation. See the attached page 2280 of *Webster's Third New International Dictionary Of The English Language Unabridged*, G. & C. Merriam Company, Springfield, Massachusetts, 1971. Although one would not normally expect that a material used to bond two other materials together would encompass one of the two other materials, it would not be consistent with the ordinary usage of the English language to say that a material that extends between and bonds a facing to a substrate could encompass the substrate. (Remarks, page 4).

Applicants' argument lacks merit.

As noted above, Rohrlach et al teach "a substrate" wherein said substrate comprises reinforcing fibers encompassed within a polyurethane foam. Clearly it is not inconsistent with the ordinary usage of the English language to say that a material that extends between and bonds a facing to a substrate could encompass the substrate.

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Additionally, it is noted that Applicants argue that Takeuchi et al teach a trim piece wherein

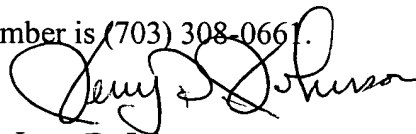
[p]orous sheet material 9 is not completely encompassed by foam material 3, and therefore could be regarded as a porous substrate. (Remarks, page 4).

The trim piece of Takeuchi et al, like Rohrlach et al, is formed by spraying a foam base material such as hard urethane foam on the fiber reinforcing material so that the pores of the fiber reinforcing material are filled with foam. It is entirely unclear how applicants have determined that the substrate of Rohrlach et al is not a "substrate" and yet state that the porous sheet of Takeuchi et al, which is also filled with foam, is "a substrate."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry D. Johnson whose telephone number is (703) 308-2515. The examiner can normally be reached on 6:00-3:30, M-F, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marian Knode can be reached on (703) 308-4311. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-5408 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Jerry D. Johnson  
Primary Examiner  
Art Unit 1764

JDJ

November 16, 2001